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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,648	04/30/2001	Menachem Levanoni	YOR920010396US1	2712

7590 07/30/2003
Stephen C. Kaufman
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Yorktown Heights, NY 10598

EXAMINER

PHAM, HUNG Q

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/845,648

Applicant(s)

LEVANONI ET AL.

Examiner

HUNG Q PHAM

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term *individual department store space-requirements history* in claims 1 and 9-10 is used by the claim to mean the records of a specific item in a database of a store as an example of *individual department store space-requirements history* in the specification, page 9, line 20-page 10, line 2, while the accepted meaning is "the records of the space requirement of an individual department store". The term is indefinite because the specification does not clearly redefine the term.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 4-5 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Thearling [USP 6,240,411 B1].

Regarding to claims 1, 9 and 10, Thearling teaches a method, a computer program, and a computer for incorporating references to data mining models into the campaign management process. As shown in FIG. 12, a data warehouse or database 125 is coupled directly to the data-mining engine 124 (Col. 15, lines 1-6). The data warehouse 125 stores the records of the customers who involved with a business transaction in the past and subjected to a marketing campaign as in FIG. 1A (Col. 1, lines 18-50). Thus, the database 125 as *a department store space-requirements database* with the records of the customers who involved in a transaction of business in the past as *a compendium of individual department store space-requirements history* is provided to

the data-mining engine. The data-mining engine also couples to a model library 120 as *a department store space-availability database* includes one or more models for evaluating a query in the campaign management function (Col. 14, lines 54-59). The model library 120 may include models, which may be a statistical analysis as *department store space diagnostics* or method for computing a probability a customer would respond favorably to a mailing as *department store space management solutions*. The model might result in calculation of both a determination that a market is going up and a confidence level that the market is going up as *department store space information* (Col. 2, lines 12-23). By *employing* the technique as shown in FIGS. 10A-D (Col. 12-13) as *a data mining technique*, Thearling further discloses the data-mining engine 124 is responsible for both querying as *interrogating* the database as *a department store space-requirements database* with respect to elements of the database and for evaluating or *interrogating* model as *a department store space-availability database* (Col. 15, lines 7-15) to produce a temporary table that includes only records satisfying the query element involving the model as *generating an output data stream, said output data stream correlating department store space-requirements problem with department store space-availability solution*. The resulting table may then be passed back to the query processor 122 for further processing (Col. 15, lines 39-50).

Regarding to claim 4, Thearling teaches all the claimed subject matters as discussed in claim 1, Thearling further discloses the step of *updating the department store-space availability database* (Fig. 6).

Regarding to claim 5, Thearling teaches all the claimed subject matters as discussed in claim 4, Thearling further discloses the step of *updating the department store space-availability database so that it includes the effects of employing a data mining technique on the department store space-requirements database* (Col. 9, lines 9-30).

Regarding to claim 7, Thearling teaches all the claimed subject matters as discussed in claim 4, Thearling further discloses the step of *refining a employed data mining technique in cognizance of pattern changes embedded in each database as a consequence of updating the department store space-availability database* (Col. 15, lines 1-59).

Regarding to claim 8, Thearling teaches all the claimed subject matters as discussed in claim 1, Thearling further discloses the step of *employing neural networks as the data mining technique* (Col. 8, lines 12-24).

4. Claims 2-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thearling [USP 6,240,411 B1] in view of applicant admitted prior art [Specification, page 9, lines 1-3].

Regarding to claim 2, Thearling teaches all the claimed subject matters as discussed in claim 1, but fails to disclose the step of *updating the department store*

space-requirements database. However, as disclosed in the admission, a conventional technique can be used to update the database (Specification, page 9, lines 1-3). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the Thearling technique by including the technique of updating a database in order to select and categorize appropriate records for a marketing campaign.

Regarding to claim 3, Thearling teaches all the claimed subject matters as discussed in claim 2, but fails to disclose the step of *updating the department store space-requirements database so that it includes the results of employing a data mining technique*. However, as disclosed in the admission, a conventional technique can be used to update the database (Specification, page 9, lines 1-3). Thearling teaches that the data-mining engine is responsible for both querying the database with respect to elements of the database and for evaluating model scores (Thearling, Col. 15, lines 7-15). Obviously, the updating of the database, for example: adding a new feature in the database, the queries as in FIG. 10 have to be changed. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the Thearling technique by including the technique of updating a database in order to select and categorize appropriate records for a marketing campaign.

Regarding to claim 6, Thearling and applicant admitted prior art teaches all the claimed subject matters as discussed in claim 2, Thearling further discloses the step of

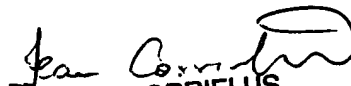
refining a employed data mining technique in cognizance of pattern changes embedded in each database as a consequence of updating the department store space-requirements database (Thearling, Col. 15, lines 1-59).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung Pham whose telephone number is 703-605 4242. The examiner can normally be reached on Monday-Friday, 7:00 Am - 3:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VU, KIM YEN can be reached on 703-305 4393. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746 7239 for regular communications and 703-746 7238 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305 3900.

Examiner: Hung Pham
July 8, 2003


JEAN M. CORRIELUS
PRIMARY EXAMINER